

Port, and LT(jg) M.A. Woodruff, Project Counsel, Eighth Coast Guard District Legal Office.

Background and Purpose

The hazardous condition requiring this regulation is a result of severe shoaling within the Baptiste Collette Bayou Channel. The U.S. Army Corps of Engineers is currently dredging this channel thereby restricting navigation. A safety zone is needed to protect vessels transiting the area. This regulation is issued pursuant to 33 U.S.C. 1225 and 1231 as set out in the authority citation for all of Part 165.

Regulatory Evaluation

This temporary rule is not a significant regulatory evaluation under Section 3(f) of Executive Order 12866 and is not significant under the "Department of Transportation Regulatory Policies and Procedures" (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full regulatory evaluation is unnecessary. This regulation will only be in effect for a short period of time, and the impacts on routine navigation are expected to be minimal.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the Coast Guard must consider whether this regulation will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632). Since the impact of this regulation on non-participating small entities is expected to be minimal, the Coast Guard certifies under 5 U.S.C. 605(b) that this regulation will not have a significant economic impact on a substantial number of small entities. This regulation will only be in effect for several hours and the impacts on small entities are expected to be minimal.

Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 et seq.).

Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 12612 and has determined that it does not have sufficient federalism implications to

warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this proposal and concluded that under figure 2-1, paragraph (34)(g) of Commandant Instruction M16475.1C, this proposal is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and record keeping requirements, Safety measures, Vessels, Waterways.

Regulation: In consideration of the foregoing, Subpart F of Part 165 of Chapter 33, Code of Federal Regulations, is amended as follows:

PART 165—[AMENDED]

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; and 33 CFR 1.05-1(g), 6.04-1, 6.04-6, and 160.5; 49 CFR 1.46.

2. A new § 165.T08-024 is added to read as follows:

§ 165.T08-024 Safety Zone:

(a) *Location.* The following area is a safety zone: Baptiste Collette Bayou Channel, Lower Mississippi River, Mile 11.5, Left Descending Bank, Above Head of Passes in the vicinity of Venice, Louisiana extending the entire width of the channel.

(b) *Effective date.* This section becomes effective on May 9, 1998, commencing at 5:00 p.m. local time. It will be terminated when the U.S. Army Corps of Engineers completes dredging operations on August 2, 1998.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, no vessel may operate within the safety zone contrary to this regulation.

(2) The Baptiste Collette Channel is restricted to vessels with drafts of five feet or less. All vessels shall comply with this draft restriction unless otherwise directed in Marine Information Broadcasts.

(3) A one way traffic pattern is in effect and being regulated by the U.S. Army Corps of Engineers M/V BRETON or as directed in Marine Information Broadcasts.

(4) All vessels shall observe a no meeting or passing zone while transiting Baptiste Collette or as directed in Marine Information Broadcasts.

(5) The west side (red) of the channel is closed from marker #6 to the sea buoy/entrance buoy. Passing will only

be allowed on the east side (green) of the channel and only at the top of each hour or as directed by the U.S. Army Corps of Engineers M/V BRETON.

Dated: May 8, 1998.

G.D. Marsh,

Captain, U.S. Coast Guard, Captain of the Port.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MO 049-1049a; FRL-6118-3]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: This final action approves revised Missouri rule 10 CSR 10-6.030 as a revision to the Missouri State Implementation Plan (SIP). This rule revision was submitted by the state of Missouri to incorporate the most current EPA guidance on capture efficiency methods for volatile organic compound emission control systems.

DATES: This direct final rule is effective on September 8, 1998 without further notice, unless the EPA receives adverse comment by August 7, 1998. If adverse comment is received, the EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Comments may be mailed to Kim Johnson, Environmental Protection Agency, Air Planning and Development Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101. Copies of the documents relevant to this action are available for public inspection during normal business hours at the: Environmental Protection Agency, Air Planning and Development Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101; and the EPA Air & Radiation Docket and Information Center, 401 M Street, SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Kim Johnson at (913) 551-7975.

SUPPLEMENTARY INFORMATION: This revision to Missouri rule 10 CSR 10-6.030 incorporates capture efficiency methods as identified in the EPA's February 7, 1995, memorandum entitled, "Revised Capture Efficiency Guidance for Control of Volatile Organic

Compound Emissions,” and the EPA’s January 9, 1994, technical document entitled, “Guidelines for Determining Capture Efficiency.” Capture efficiency is the measure of the fraction of all organic vapors generated by a process that are directed to an abatement or recovery device. Capture efficiency and destruction efficiency need to be determined in order to calculate the overall control efficiency of any control device.

The EPA’s Revised Capture Efficiency Guidance Document is the result of a 12-month EPA study of alternatives with potential to reduce capture efficiency testing costs. This guidance document reduces costs by recommending protocols, presenting criteria by which alternative procedures can be approved, and establishing the reporting requirements for using alternative procedures. Guidelines are also included for selecting and testing representative process lines at a facility and for testing multiple lines in combination.

This rule amendment also incorporates specific methods to determine capture efficiency for automobile and light-duty truck topcoat operations entitled, “Protocol for Determining the Daily Volatile Organic Compound Emission Rate of Automobile and Light-Duty Truck Topcoat Operations,” as amended by Section 23–Determining Spraybooth VOC Capture Efficiency dated March 8, 1996.

I. Final Action

The EPA is taking final action to approve as a revision to the SIP the amendment to rule 10 CSR 10–6.030, “Sampling Methods for Air Pollution Sources,” submitted by the state of Missouri on December 17, 1996.

The EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, the EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should relevant adverse comments be filed. This rule will be effective September 8, 1998 without further notice unless the Agency receives relevant adverse comments by August 7, 1998.

If the EPA receives such comments, then the EPA will publish a document withdrawing the final rule and informing the public that the rule did not take effect. All public comments received will then be addressed in a subsequent final rule based on the

proposed rule. The EPA will not institute a second comment period on the proposed rule. Only parties interested in commenting on the proposed rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on September 8, 1998 and no further action will be taken on the proposed rule.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors, and in relation to relevant statutory and regulatory requirements.

II. Administrative Requirements

A. Executive Orders 12866 and 13045

The Office of Management and Budget has exempted this regulatory action from Executive Order 12866 review.

The final rule is not subject to Executive Order 13045, entitled “Protection of Children from Environmental Health Risks and Safety Risks,” because it is not an “economically significant” action under Executive Order 12866.

B. Regulatory Flexibility

The Regulatory Flexibility Act generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities.

SIP approvals under section 110 and subchapter I, Part D of the Clean Air Act (CAA) do not create any new requirements but simply approve requirements that the state is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids the EPA to base its actions concerning SIPs on such grounds (*Union Electric Co. v. U.S. E.P.A.*, 427

U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2)).

C. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 (“Unfunded Mandates Act”), signed into law on March 22, 1995, the EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to state, local, or tribal governments in the aggregate; or to the private sector, of \$100 million or more. Under section 205, the EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires the EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of \$100 million or more to either state, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves preexisting requirements under state or local law, and imposes no new requirements. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, result from this action.

D. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a “major rule” as defined by 5 U.S.C. 804(2).

E. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 8, 1998. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the

purposes of judicial review, nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: June 12, 1998.

William Rice,

Acting Regional Administrator, Region VII.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 et seq.

Subpart AA—Missouri

2. Section 52.1320 is amended by adding paragraph (c)(106) to read as follows:

§ 52.1320 Identification of plan.

* * * * *

(c) * * *

(106) On December 17, 1996, the Missouri Department of Natural Resources submitted a revised rule pertaining to capture efficiency.

(i) Incorporation by reference.

(A) Revised regulation 10 CSR 10-6.030 entitled, "Sampling Methods for Air Pollution Sources," effective November 30, 1996.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[DC038-2009a, MD058-3026a, VA083-5035a; FRL-6120-6]

Approval and Promulgation of Air Quality Implementation Plans; District of Columbia, Virginia, Maryland; 1990 Base Year Emission Inventory for the Metropolitan Washington, DC Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving revisions to the District of Columbia (the District),

the State of Maryland and the Commonwealth of Virginia State Implementation Plans (SIP) which pertain to the 1990 base year ozone emission inventory for the Washington, DC-MD-VA Consolidated Metropolitan Statistical Area (CMSA). This area, commonly referred to as the Metropolitan Washington, D.C. area, is classified as a serious ozone nonattainment area. These SIP revisions were prepared by the District, the Commonwealth of Virginia and the State of Maryland with the assistance of the Metropolitan Washington Council of Governments and were submitted for the purpose of revising the 1990 baseline of volatile organic compound (VOC) and nitrogen oxides (NOx) emissions that contribute to ozone nonattainment problems in the Metropolitan Washington, D.C. area. The intended effect of this action is to approve amendments to the 1990 base year ozone emission inventory for the Metropolitan Washington, D.C. area in accordance with the Clean Air Act.

DATES: This direct final rule is effective on September 8, 1998 without further notice, unless EPA receives adverse comment by August 7, 1998. If adverse comment is received, EPA will publish a timely document withdrawing this rule.

ADDRESSES: Comments may be mailed to David L. Arnold, Chief, Ozone & Mobile Sources Branch, Mailcode 3AP21, Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; the District of Columbia Department of Health, Air Quality Division, 2100 Martin Luther King Ave., S.E., Washington, DC 20020; the Maryland Department of the Environment, 2500 Broening Highway, Baltimore, Maryland 21224; and the Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219.

FOR FURTHER INFORMATION CONTACT:

Christopher Cripps, (215) 814-2179, at EPA Region III address, or via e-mail at cripps.christopher@epamail.epa.gov.

While information may be requested via e-mail, comments must be submitted in writing to the above Region III address.

SUPPLEMENTARY INFORMATION:

I. Background

Under the Clean Air Act (the Act), States have the responsibility to

inventory emissions contributing to national ambient air quality standard nonattainment, to track these emissions over time, and to ensure that control strategies are being implemented that reduce emissions and move areas towards attainment. The 1990 base year emissions inventory is the primary inventory from which the periodic inventory, the rate-of-progress (ROP) target level and projection inventories, and the modeling inventory are derived. The Act requires ozone nonattainment areas designated as moderate, serious, severe, and extreme to submit a plan within three years of 1990 to reduce VOC emissions by 15 percent within six years after 1990 (15% ROP plan). The baseline level of emissions, from which the 15 percent reduction is calculated, is determined by adjusting the base year VOC inventory to exclude biogenic emissions and to exclude certain emission reductions not creditable towards the 15% plan. The Act further requires ozone nonattainment areas designated as serious, severe, and extreme to submit a plan within four years of 1990 to reduce VOC emissions by a further nine percent in the period between six and nine years after 1990 (post-1996 ROP plan). The Act allows reductions in NOx emissions after 1990 to be substituted for VOC reductions in the post-96 ROP plan. When NOx reductions are substituted, the baseline level of emissions, from which the NOx reduction percentage is calculated, is determined by adjusting the base year NOx inventory to exclude certain emission reductions not creditable towards the 15% plan. Further information on these inventories and their purpose can be found in the following documents issued by EPA:

Emission Inventory Requirements for Ozone State Implementation Plans, Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina, March 1991

Guidance on the Adjusted Base Year Emissions Inventory and the 1996 Target for 15 Percent Rate of Progress Plans, Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina, October 1992.

Guidance on the Post '96 Rate-of-Progress Plan (RPP) and Attainment Demonstration (Corrected version of February 18, 1994), Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina, February 18, 1994.